

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SPECIAL USE PERMIT TO ALLOW THE CONSTRUCTION OF AN OFFICE BUILDING WITH TWO 16-STORY TOWERS TOTALLING APPROXIMATELY 2.1 MILLION SQUARE FEET, INCLUDING 37,603 GROSS SQUARE FEET OF GROUND FLOOR RETAIL AND AMENITY SPACE AND 1,433,301 GROSS SQUARE FEET OF COMMERCIAL OFFICE SPACE WITH THREE LEVELS OF BELOW-GRADE PARKING INCLUDING STACKERS, TANDEM AND VALET PARKING, AND TO ALLOW UP TO 15 COMMERCIAL CONDOMINIUM UNITS AND EXTENDED CONSTRUCTION HOURS TO INCLUDE SATURDAY WORK FROM 7:00 AM TO 7:00 PM AND 24-HOUR CONCRETE POURS FOR UP TO 12 DAYS PER YEAR OVER THE COURSE OF CONSTRUCTION (51 MONTHS), ON A 3.57-GROSS ACRE SITE LOCATED AT THE NORTHWEST CORNER OF SOUTH ALMADEN BOULEVARD AND WOZ WAY (APNS: 264-28-019, 022-025, 028, 149, 152, 153, 160, 167-169, 172-176)

FILE NO. SP20-005

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on January 31, 2019 an application (File No. SP20-005) was filed by BXP Almaden Associates LP, for a Special Use Permit to allow the construction of one office building with two 16 story towers totaling approximately 2.1 million square feet, including 37,603 gross square feet of ground floor retail and amenity space and 1,433,301 gross square feet of commercial office space with three levels of underground parking including stackers, tandem and valet parking, and to allow up to 15 commercial condominium units and extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of construction (51 months) on a 3.57-gross acre site, on that certain real property situated in the DC Downtown Primary Commercial Zoning District and located at the northwest corner of South Almaden Boulevard and Woz Way (APNS: 264-28-019, 022-

025, 028, 149, 152, 153, 160, 167-169, 172-176, San José, which real property is sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on August 25, 2021, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, this City Council received and considered the reports and recommendations of the City’s Planning Commission and City’s Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "South Almaden Offices, Special Use Permit, File No. 20-005" dated revised on July 14, 2021, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

WHEREAS, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located at the northwest corner of Woz Way and South Almaden Boulevard. The approximately 3.57-gross acre site is a public surface parking lot with driveway access from Woz Way. The site is surrounded by the Convention Center to the east across South Almaden Boulevard, a 9-story office building to the north, the Guadalupe River and Trail to the west, and single-family residences approved for redevelopment with two office towers (File No. H20-004) to the south across Woz Way. The site is long and narrowly shaped with an approximately 0.16-mile (845 feet) stretch of the Guadalupe River riparian corridor along the entire western edge. The narrowest portion of the site is approximately 145 feet wide in the middle of the site and the widest portion is approximately 324 feet wide at the southern edge of the site along Woz Way. The 12-foot wide Guadalupe River Trail is immediately adjacent to the west of the site.
2. **Project Description.** The project would demolish the existing parking lot and construct an approximately 2.1 million square foot building that includes approximately 1,433,301 square feet of office space in two 16-story, 283-foot tall towers (North Tower and South

Tower) connected by a podium, approximately 37,603 square feet of amenity and retail space on the ground floor podium, and three levels of underground parking. The total floor area ratio (FAR) would be 9.98.

The project design includes abundant pedestrian circulation around the building and provides direct connections from the South Almaden Boulevard sidewalk to the Guadalupe River Trail through two paseos. The project also includes a plaza at the corner of South Almaden and Woz Way.

The project would allow for an alternative parking design including parking stackers, tandem and valet parking within the underground parking garage and allow up to 15 commercial condominium units. The minimum size of the commercial condominium unit is 750 square feet. The project also includes extended construction hours including Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of construction (51 months).

The site is currently accessed by a single driveway on Woz Way. The Woz Way driveway would be removed and replaced with a full-access driveway located north of the Locust Street/Woz Way intersection. In addition, a right-in/right-out only driveway along South Almaden Boulevard would be located at the northeast corner of the project site which would be restricted to trucks only and would provide access to the loading docks in the underground parking garage. In addition, another full access driveway would be located at the South Almaden/Convention Center intersection. The project includes three levels of underground parking with a total of 1,279 parking spaces. The project incorporates an alternative parking arrangement, using stackers, tandem and valet parking. Additionally, the project's required public improvements include a separated bike lane between the sidewalk and drop-off zones along the eastern and southern project frontages on Almaden Boulevard and Woz Way. The project would also remove the existing 30-inch storm drain that currently bisects the northern portion of the site and construct a storm drain realignment along the northern property line on the adjacent property and along the western portion of the site which would connect to the existing Guadalupe River outfall.

A Supplemental Environmental Impact Report (SEIR) to the 2040 Downtown Strategy Environmental Impact Report has been prepared for the project. The 2040 Downtown Strategy Environmental Impact Report was certified by the City Council in December 2018. The SEIR for the project identified significant and unavoidable project impacts to the following resource areas:

- Air Quality: Construction activities associated with the project would expose off-site receptors to PM2.5 emissions in excess of BAAQMD thresholds.
- Air Quality: The project would have a significant unavoidable operational PM2.5 impact to the off-site Maximum-Exposed Individual (MEI).
- Cumulative Air Quality: The maximum annual PM2.5 concentration would exceed the BAAQMD thresholds for cumulative sources.

- Cumulative Biological Resources: Construction and operation of the new buildings within 35 feet of the riparian edge would incrementally contribute to a cumulatively considerable impact to the Guadalupe River as a whole.
- Cumulative Noise and Vibration: All four nearby entitled projects (Museum Place, 200 Park Avenue, Cityview Office Plaza, and Balbach Affordable Housing) would individually impact the nearby sensitive receptors (residences) and when combined, would have a cumulatively considerable noise impact even with inclusion of the identified mitigation measures.

These significant and unavoidable impacts are due to the size of the building, duration and intensity of construction, and proximity to the Guadalupe River. While mitigation measures have been included to reduce the impacts to air quality, biological resources, and noise, to the maximum extent feasible, the impacts will remain significant and unavoidable.

The Supplemental Environmental Impact Report was prepared in accordance with Title 21 of the San José Municipal Code and the California Environmental Quality Act of 1970, as amended (CEQA), and a statement of overriding considerations is required for environmental impacts that cannot be reduced to a less than significant level.

3. **General Plan Conformance.** The subject site has an Envision San Jose 2040 General Plan land use designation of Downtown. This designation supports uses such as office, retail, service, residential, medical office, hospital, and entertainment uses. All development within this designation is intended to enhance the complete community in Downtown, support pedestrian and bicycle circulation, and increase transit ridership. The Downtown land use designation allows a density of up to 800 dwelling units per acre (DU/AC) and a floor-area ratio (FAR) of up to 30.

The 16-story high-rise office towers with ground floor retail spaces foster a complete community in Downtown by increasing jobs, providing active ground floor store fronts uses along streets and open space frontage, and a plaza. The project also includes a Transportation Demand Management plan that promotes transit ridership and other alternative modes of transportation. Additionally, the project would have a FAR of 9.98. making it consistent with the Downtown land use designation.

The Special Use Permit is consistent with the following General Plan policies:

- a. Land Use Policy LU-1.2: Encourage walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Analysis: The project limits vehicular circulation on site and promotes pedestrian connectivity. All the loading and parking activities are directed underground. The project's open pedestrian level design allows abundant pedestrian circulation around the building and provides direct connections from the South Almaden

Boulevard sidewalk to the Guadalupe River Trail through two paseos. The project also includes a plaza at the corner of South Almaden and Woz Way, providing an attractive urban space. The project would also construct a 5-foot tree wells, a 5.5-foot wide raised bike lane, a 0.5-foot tactile strip and an 8-foot wide sidewalk along the South Almaden Boulevard frontage, and construct a 5-foot tree wells, a 6-foot wide raised bike lane, a 0.5-foot tactile strip, and a 32 to 38-foot wide sidewalk along the Woz Way frontage. In addition, the South Almaden Boulevard Convention Center crosswalk and the intersection of Woz Way and South Almaden Boulevard will be improved per the new plan line requested by the Department of Public Works and Department of Transportation to provide an enhanced pedestrian connection.

- b. Downtown Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the General Plan.
- c. Land Use Policy LU-5.7: Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

Analysis: The development's architecture and site plan layout are designed to complement and further enliven the surrounding Downtown area. The ground floor would provide retail and amenity space, and office lobbies along its street frontages, paseo, plaza, and the river trail, which adds to the Downtown amenities for residents, workers, and visitors. The project's design, massing, and on- and off-site improvements would create a focal point in Downtown by improving pedestrian and bicycle circulation, providing active ground floor uses and an intensive employment use in Downtown.

The pedestrian orientation and amenities of the ground floor and site layout would support social interactions. The project's street frontage and river frontage would be lined with active uses including lobbies and retail spaces. The building's ground floor storefront is designed with high transparency to enhance safety and visibility between the public realm and private development.

- d. Transportation Policy TR-4.1: Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.

Analysis: The site is served by the Santa Clara Valley Transportation Authority (VTA) and is approximately 0.7 miles from Caltrain, Altamont Commuter Express (ACE), and Amtrak stations. The project area is served by many VTA bus routes with high-frequency service. The nearest bus stops are located at the San Carlos Street/Woz Way intersection (Route 23) and San Carlos/Convention Center

intersection (Routes 23, 168, 523). The site is also within 1,000 feet of the Children's Discovery Museum Light Rail Station and Convention Center Light Rail Station. The project includes a Transportation Demand Management Plan that promotes transit ridership by incorporating a transit use incentive program. The additional ground floor retail space would provide residents and workers in the Downtown area with additional amenities which would help expand and further connect the pedestrian network and reduce automobile use.

The proximity of the intensive office development to a variety of public transportation options encourages transit use and helps enable workers to have a car-free commute. Furthermore, it is envisioned that employees in the development would be able to walk, bicycle, or use public transportation to access many dining and entertainment amenities close to or on the project site. Finally, the development's commercial/retail spaces would provide the surrounding Downtown neighborhood with additional nearby retail businesses.

- e. Downtown Urban Design Policy CD-6.1: Recognize Downtown as the most vibrant urban area of San Jose and maximize development potential and overall density within the Downtown.
- f. Downtown Urban Design Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
- g. Downtown Urban Design Policy CD-6.6: Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings higher than 75 feet, to create distinctive silhouettes for the Downtown skyline.

Analysis (Policy CD-6.1 to 6.3): The project has a FAR of 9.98 with the maximum height of approximately 283 feet allowed by the Federal Aviation Administration (FAA), making this a dense commercial project. The significant density of the project would contribute to Downtown's growth as a vibrant urban area. The project has undergone extensive design review to ensure its scale, quality, and character strengthen Downtown's status as an urban center, as discussed in the Design Guidelines conformance section.

- h. Environmental Resources Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridor in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

Analysis: The Riparian Corridor Policy Study was approved by the City Council in May 1994 and was revised in March 1999. The purpose of the 1999 Policy Study was to explore in detail issues related to the 2020 General Plan policies which promote the preservation of riparian corridors, the areas along natural streams, and how these corridors should be treated for consistency with the 2020 General

Plan. The 1999 Policy Study was designed to provide guidance for development projects within or adjacent to riparian corridors.

Environmental Resources Policy ER-2.6 calls for the City Council to develop a City Council policy to develop and require the use of a criteria checklist to evaluate new development that would use the riparian setback exception. Since the 1999 Policy Study and the City Council's adoption of the current Envision 2040 General Plan in November 2011, the City Council adopted Council Policy 6-34: Riparian Corridor Protection and Bird Safe Design on August 23, 2016. Council Policy 6-34 provides guidance consistent with the 2040 General Plan goals, policies and actions for the protection of riparian corridors and bird-safe design. The Policy was developed based on the 1999 Policy Study and the Habitat Conservation Plan in order to successfully implement the riparian goals and policies of the General Plan. Council Policy 6-34 provides guidance on how projects should be designed to protect and preserve the city's riparian corridors, such as incorporating riparian setback recommendations and exceptions from the 1999 Policy Study. The 2016 adopted Council Policy 6-34 replaces the 1999 Riparian Corridor Policy Study.

As stated above, immediately adjacent to the project site to the west is an existing 12-foot wide paved trail along the Guadalupe River. The biological analysis report prepared by H.T. Harvey and Associates dated April 10, 2020 found that this reach of the Guadalupe River is highly fragmented with very little undisturbed habitat due to the highly urbanized surrounding environment and human-related disturbances. The riparian corridor adjacent to the project is extremely limited in its habitat value and influence. The Guadalupe River is a Category 1 stream as defined in the Santa Clara Valley Habitat Conservation Plan (SCVHP). Per SCVHP, this stream type has sufficient flow to support covered species and riparian habitat. These streams include perennial streams and some intermittent streams. These streams are typically larger than ephemeral drainages and support movement of covered species along the length of the stream. The ability of these streams to also support healthy riparian habitats bolsters the ecological value of the stream.

SCVHP has different stream/riparian setback requirements on undeveloped parcels and developed parcels. While the SCVHP requires a 100-foot setback from a Category 1 stream for undeveloped parcels, the project site in its entirety is currently developed with a surface parking lot, and the SCVHP requires no setback for developed parcels. The City submitted an exception request to the Habitat Agency to reduce the setback to a minimum of 35 feet prior to this clarification. The Habitat Agency originally indicated that a 35-foot setback would be required from the riparian edge of vegetation. Since then, the Habitat Agency has issued a revised memo dated April 5, 2021 to supersede the original recommendation that clarifies that the 35-foot setback is not required for this parcel because of its existing developed condition (see the Santa Clara Valley

Habitat Agency Stream and Riparian Setback Condition [Condition 11] Exception for South Almaden Office Project [Boston Properties], City of San Jose [#SP20-005] memorandum, dated April 5, 2021 [Attachment E of the SEIR First Amendment] for details). The project is also consistent with the City Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design as further discussed below.

4. Zoning Conformance.

Land Use

The site is zoned DC Downtown Primary Commercial. Pursuant to Section 20.70.100 of the San José Municipal Code, the office and retail are permitted uses within this Zoning District.

Height and Setbacks:

Section 20.70.210 of the San José Municipal Code does not establish minimum setback requirements for developments in the DC Downtown Primary Commercial Zoning District. The height of development in the Zoning District is limited only to that necessary for the safe operation of the San José International Airport and the requirements of FAA Part 77 as discussed in Section 20.70.200 of the San José Municipal Code. Per the Airport Department review memo dated March 12, 2020, the building height will maintain the safe operation of the airport. Per standard condition of approval with Condition No. 11 in the Resolution the project is required to secure required FAA clearances for the building's height prior to commencing construction.

Parking

Per Table 20-140 of Zoning Code Section 20.70.020, commercial offices require 2.5 vehicle spaces per 1,000 square feet of net floor area and one bicycle space per 4,000 square feet of net floor area. Commercial retail uses have no minimum vehicle parking requirement but require three bicycle parking spaces including two short-term spaces and one long-term spaces per Zoning Code Section 20.70.485.

Based on the net office floor area of 1,203,745 square feet (85% of the 1,416,171 gross floor area), the project requires 3,010 vehicle parking spaces and 304 bicycle parking spaces (301 for office and 3 for retail). Applying a parking reduction, the project provides a total of 1,279 parking spaces, and exceeds the bicycle parking requirement by providing a total of 319 bicycle parking spaces on site.

Per Zoning Code Section 20.90.220.A.1.a, a 20% reduction in automobile parking is allowed if the project site is within 2,000 feet of an existing light rail station. The site is within 740 feet of the Convention Center Light Rail Station and 630 feet of the Children's Discovery Museum Light Rail Station. A parking reduction of up to 50% may be authorized if the project implements at least three transportation demand management (TDM) measures as specified in Section 20.90.220.A.1. Additionally, per Section 20.70.330.A, for projects within the Downtown Zoning District, a further 15%

parking reduction may be granted if it is determined that 1) a TDM plan program will reduce parking demand and identifies the percentage of parking demand that will be reduced through the program; 2) the TDM will be maintained for the life of the project; and 3) it is reasonably certain the parking provided will be maintained to meet the required parking during the life of the building or use.

The project would utilize the maximum available parking reduction of 57.5%, which would reduce the required 3,010 parking spaces down to 1,279 parking spaces. The project provides 1,279 vehicle parking spaces. The project will be implementing a TDM plan. The TDM plan dated July 14, 2021 prepared by Hexagon Transportation Consultants, Inc. conforms with Section 20.90.220 and Section 20.70.330. This TDM plan provides evidence that the project TDM measures will reduce parking demand of at least 8 percent, which would achieve the further 15% parking reduction per Zoning Code Section 20.70.330.A.1, after applying the 50% parking reduction based on Zoning Code Section 20.90.220.A.

The TDM measures include a transit use incentive program for employees, providing ground-floor food/beverage-serving uses and other amenities for the benefit of office workers, and providing on-site showers and lockers to compliment the on-site bicycle parking and encourage alternative transportation for all employees. In addition, a permit condition (Condition No. 6) will require the TDM plan to be implemented for the life and use of the building. Therefore, with these project conditions, the project meets the parking requirement.

Alternative Parking Arrangement

The project incorporates an alternative parking arrangement, using stackers, tandem and valet parking which is allowed with a Special Use Permit per Section 20.90.200 based on an adequate parking management plan.

The project includes three levels of parking. Level B1 includes accessible parking, mechanical stacker parking, some tandem spaces parked by the valet and some self-parking with valet assist stalls in the drive aisle. Level B2 includes some self-parking spaces, mechanical stackers parking and some self-parking with valet assist stalls in the drive aisle and some tandem spaces parked by the valet. Level B3 includes self-parking with valet assist in the drive aisles along with some tandem spaces parked by the valet. Among the total 1,279 parking spaces, there are 421 parking spaces in the stackers, 102 tandem spaces, and 208 spaces in the drive aisles with valet assist. The rest are the self-parking spaces. Valet service will operate during normal business hours (typically, Monday through Friday from 8:00 AM to 5:00 PM, and additional hours as needed to implement the parking management plan).

The parking management plan provided on Sheet P-101 of the project plan is adequate in that the reconfiguration of parking spaces is adequate to meet the required number of parking for the project, and the plan includes how parking attendants would manage the tandem and valet parking and how parkers would use

stackers. With Condition No. 7 which requires that these parking spaces be maintained throughout the life of the project, it is reasonably certain that this underground parking will continue to be provided and maintained at the same location during the life of the building or use. And the parking spaces are convenient and accessible to the buildings or uses to be served.

Off-Street Loading

Per Zoning Code Section 20.70.420, offices with 100,000 to 175,000 square feet of gross floor area shall provide one loading space. One additional loading space shall be provided for each 100,000 square feet of gross floor area in excess of 175,000 square feet. Given the 1,416,171 gross square feet of the office area, 14 loading spaces are required. Zoning Code Section 20.70.430.B requires two loading space for retail and commercial use between 30,000 and 50,000 gross square feet of floor area. Two loading spaces are required for the 37,603 square feet square feet of retail space. The project would require a total of 16 loading spaces and the project provides six loading spaces within the below-grade garage.

Zoning Code Section 20.70.450 allows a reduction in the number of loading spaces if it is determined that an adequate area exists within the public right of way for loading. Per the Traffic Memo dated June 3, 2020 prepared by the Department of Public Works, and based on their expertise, the number of code-required loading spaces is excessive for this project, and six spaces would be sufficient. No additional on-street loading spaces are therefore required.

5. Council Policy Conformance.

City Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design is for the protection, preservation and restoration of riparian habitat. The policy provides general guidelines for riparian corridor protection and requires a minimum 100-foot setback from a riparian corridor's top of bank or a vegetative edge, whichever is closest, to minimize intrusion into the riparian corridor, and allows consideration of reduced setbacks under limited circumstances. A riparian project is a project that requires approval of a development permit, that is within 300 feet of a riparian corridor's top of bank or vegetative edge, whichever is greater.

The subject site is adjacent to Guadalupe River to the west and is completely within 300 feet of the riparian setback area. The edge of the existing riparian canopy (vegetative edge) is immediately adjacent to the site to the west, with some vegetation overhanging the existing parking lot.

Per the Biological Resources Report prepared by H.T. Harvey and Associates dated April 10, 2020, this reach of the Guadalupe River is highly fragmented with very little undisturbed habitat due to the highly urbanized surrounding environment and human-related disturbances. The riparian corridor adjacent to the project is extremely limited in its habitat value and influence.

As shown in the project's riparian setback diagram, Sheet A-014 of the plan set dated revised July 14, 2021, the project towers' upper floors would have a setback ranging from 3.92 feet to 32.5 feet to the edge of the riparian corridor and the underground parking garage would have a setback ranging from 1.5 feet to 34.25 feet to the edge of the riparian corridor. Therefore, the project is subject to this riparian policy.

Section A of the policy provides design guidance for riparian projects. Section A.2 states that a reduced setback may be considered under limited circumstances such as:

- a. Developments located within the boundaries of the Downtown area, as those boundaries are defined in the General Plan.

Analysis: The site is within the Downtown growth area defined in the General Plan.

- b. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one (1) acre.

Analysis: This is not applicable to the project because the subject site is 3.57 acres.

- c. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback.

Analysis: This is not applicable to the project because Guadalupe River is not a small lower order tributary.

- d. Sites with unique geometric characteristics and / or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.

Analysis: The project area is an irregularly long and narrowly shaped site with an approximately 0.16-mile (845 feet) stretch of riparian corridor along the entire western edge. Because the site is narrow, almost 50% of the site is within the 100-foot riparian setback area. The narrowest point is approximately 132 feet to the edge of the riparian corridor, which only leaves approximately 32 feet for development without a setback reduction at the narrowest point. The widest point is approximately 236 feet to the 100-foot riparian setback line at the south end of the project site.

- e. Pre-existing one- or two-family residential lots, or typical yard area, but only where a frontage road is infeasible to buffer Riparian Corridors from these and the Building Setbacks are consistent with all Riparian Corridor setback requirements.

Analysis: This is not applicable to the project as the existing use of the site is a parking lot.

- f. Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new development will have significantly less environmental impacts on the Riparian Corridor than the existing development.

Analysis: The project's high-rise office development would be more intensive than the existing parking lot use and have a greater impact on the riparian corridor than the parking lot use. However, the project would include the following site improvements: 1) The existing parking lot is within 35 feet of the riparian edge. The parking lot consists of impervious pavement that covers the entire 3.7-acre project site, with the exception of approximately 660 square feet of landscaping area at the northwest edge of the site. The project would have less impervious surface than the existing parking lot in that there are approximately 8,660 square feet of pervious surfaces, including native vegetation adapted to the Santa Clara Valley watershed. The project would comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. 2) The existing parking lot includes 390 parking spaces that are accessible 24 hours per day and seven days per week. The project would direct all vehicular circulation to the underground parking garage. 3) As discussed below, although the construction and operation of the new building would be within the 35 feet of the riparian edge and would incrementally contribute to a cumulatively considerable impact to the Guadalupe River as a whole per the SEIR, the project would have a less than significant project-level environmental impact from the individual project-specific level. Furthermore, the project would be required to implement mitigation measures that would reduce impact from encroachment on riparian birds and habitat and would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community.

- g. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Analysis: As discussed above, the existing site is a paved parking lot with the exception of approximately 660 square feet of landscaping area at the northwest edge of the site. The project would have approximately 13,033 square feet of landscape area on grade including approximately 17-foot wide landscape strips with native vegetation adapted to the Santa Clara Valley watershed along the western edge of the site within the 35-foot riparian setback area, which helps enhance the riparian value.

As a result of the project's encroachment within 35 feet of the riparian corridor edge of vegetation, mitigation measures are required to provide restored riparian habitat area at a ratio of 2:1 for disturbed land area. The project encroaches on approximately 1.8 acres of the 100-foot riparian setback area; therefore, 3.6 acres of riparian lands are required to be enhanced and restored. Additional mitigation measures aimed at improving and maintaining riparian habitat include restoration monitoring for a period of 10 years and use of native vegetation. The biological evaluation included in the Biological Resources Report prepared by H.T. Harvey and Associates dated April 10, 2020 found that the reach of the Guadalupe River adjacent to the parcel is highly fragmented with very little undisturbed habitat due to the highly urbanized surrounding environment and human-related disturbances.

The riparian corridor adjacent to the project is extremely limited in its habitat value and influence; therefore, required mitigation of 3.6 acres of native restored riparian habitat will enhance the riparian value. The project includes mitigation measure BIO(C)-1.1 and 1.2 with performance criteria to identify location of programs for restoration or enhancement prior to the issuance of grading permits

- h. Recreational facilities deemed to be a critical need and for which alternative site locations are limited.

Analysis: This is not applicable to the project.

- i. Utility or equipment installations or replacements that involve no significant disturbance to the Riparian Corridor during construction and operation, and generate only incidental human activity.

Analysis: This is not applicable to the project.

- j. The existence of legal uses within the minimum setback.

Analysis: The existing 3.57-acre site is a legally paved parking lot used as an off-site parking establishment. Approximately 1.8 acres (50%) of the site is within the 100-foot riparian setback area. The 12-foot wide paved Guadalupe River Trail is immediately adjacent to the project site to the west.

- k. The extent to which meeting the required setback would result in demonstrable hardship (i.e. denies an owner any economically viable use of the land or adversely affects recognized real property interest).

Analysis: The project site has a disproportionately long riparian frontage, and more than half of the site falls within the 100-foot riparian setback area. As discussed above, the developable area outside the 100-foot setback would be 44 feet wide at the narrowest point, which would not provide adequate area to develop a project consistent with the project's objectives to develop a large office in Downtown. Observing a 100-foot riparian setback would be economically infeasible given the narrow site configuration and market demand for larger floor plates. A 100-foot setback would result in an approximately 18,000-square foot floor plate. A memo dated March 19, 2020 prepared by Commercial Real Estate Services (CBRE) found that office building with a 18,000-square foot floor plate would be unattractive to potential tenants in the Downtown office market. The CBRE Memo found that the majority of tenants in Downtown San Jose are financial and professional service companies that typically desire large floor plates of 40,000 square feet or more. Of the office buildings currently in Downtown, those with floor plates of less than 40,000 square feet have remained vacant the longest (over two years) and have had difficulty attracting tenants. Therefore, an exception to the minimum required setback is appropriate in order to have a viable development.

- I. The extent to which meeting the minimum setback would require deviations from, exception to or variances from other established policies, legal requirements, or standards.

Analysis: In general, Downtown Primary Commercial Zoning District has the most flexible development standards among all Zoning districts in the City, requiring no minimum setbacks. No deviations from, exception to or variances from other established policies, legal requirements, or standards would be required.

To qualify for the reduced setback, the applicant may illustrate the existence of one or more of the conditions under Section A.3 of the Riparian Policy by a qualified biologist. A Biological Technical Report including the evaluation of the stream setback was prepared by WRA, Inc. dated February 2020. A Biological Resources Report, dated April 10, 2020, was also prepared by H.T. Harvey and Associates for the Supplemental Environmental Impact Report. Based on the information provided by qualified biologists, the project qualifies for a setback reduction due to the following circumstances under Section A.3:

- m. There is no reasonable alternative for the proposed Riparian Project that avoids or reduces the encroachment into the Setback Area.

Analysis: The SEIR analyzes several reduced development alternatives, including a reduced development project with 35-foot setback to property line and reduced development with 100-foot setback to property line, and concludes that these are not reasonable project alternatives.

Under the reduced development with 35-foot setback to the property line, the two office towers would be 16 stories high with a combined total project area of 1,659,795 square feet, which is 392,233 square feet less than the project. This alternative would include four levels of below-grade parking with 1,148 required parking spaces. The air quality impacts would remain significant and unavoidable under this alternative and all construction related impacts are anticipated to remain the same. The cumulative significant and unavoidable biological impact would remain because this alternative has a 35-foot setback to the property line, and not the edge of the riparian corridor, which overlaps with the property line. This alternative would not meet the project's objective to maximize the use of the site compared to the Project.

Under the 100-foot setback to property line alternative, the two office towers would be 16 stories high with a combined total project square footage of 828,070 square feet and include six levels of below-grade parking to provide 562 required parking spaces. This would be a reduction of approximately 1,221,958 square feet of office and amenity space. This alternative would avoid the project's significant unavoidable cumulative biological resources encroachment impact and construction air quality impact. However, this alternative would not reduce any other impacts identified in the Draft SEIR. This alternative would not meet the

project objectives to construct a high-density office development and would not maximize the use of the site. Furthermore, the reduction of 1,221,958 square feet of usable square footage would not be economically feasible for the project. A 100-foot setback would result in an approximately 18,000-square foot floor plate. A memo dated March 19, 2020 prepared by Commercial Real Estate Services (CBRE) found that office building with a 18,000-square foot floor plate would be unattractive to potential tenants in the Downtown office market. The CBRE Memo found that the majority of tenants in Downtown San Jose are financial and professional service companies that typically desire large floor plates of 40,000 square feet or more. Of the office buildings currently in Downtown, those with floor plates of less than 40,000 square feet have remained vacant the longest (over two years) and have had difficulty attracting tenants. The average cap rate for San Jose Class A commercial office buildings is 5.1% as indicated in the CBRE office sales comparable as of the date of the report. Increasing the setback to 100 feet would result in a return on cost of 3.51%, which would be lower than the cap rate and therefore economically infeasible.

- n. The reduced setback will not significantly reduce or adversely impact the Riparian Corridor.

Analysis: The entire project site is a paved parking lot. As described above, the edge of the existing riparian canopy is immediately adjacent to the site to the west, with some vegetation overhanging the existing parking lot. The building footprint would not extend beyond the existing parking lot boundary and the entire building including the underground parking garage would not encroach into the riparian canopy. The project includes native vegetation adapted to the Santa Clara Valley watershed along the western edge. In addition, the project would apply measures (Condition No. 39.b.6)) to protect trees within the riparian corridor during construction even the Riparian Tree Impacts Assessment Memorandum prepared by HT Harvey and Associates dated July 22, 2021 concludes that excavation of the underground parking garage will not result in impacts to roots whose removal would potentially result in damage to trees, and therefore will not result in a significant impact on riparian trees along the Guadalupe River. These measures are recommended by the biologist to be implemented as a precaution. The measures include having a certified arborist monitor the initial excavation if there is excavation beneath the canopies of the riparian trees, and manually exposing and pruning roots three inches back from construction if roots larger than one inch in diameter are encountered during excavation beneath the canopies of riparian trees. The detail root pruning measures are included in Condition No. 39.b.6).

The project would reduce the quality of the riparian habitat. However, per the Biological Resources Report dated April 10, 2020 prepared by H.T. Harvey and Associates, since the existing riparian habitat immediately adjacent to the site is of moderate quality and would not attract a large number of birds, the project would not result in a substantial degradation of riparian bird communities in the segment

of the Guadalupe River adjacent to the site or affect regional populations of bird species that use the site. Additionally, compensatory mitigation, as described in Mitigation Measure BIO(C)-1.1, is required to be provided by the project applicant to offset project impacts on the ecological functions and values of the riparian corridor. Mitigation Measure BIO(C)-1.1 requires riparian habitat to be enhanced or restored to native habitat along the immediately adjacent riparian corridor, and/or off-site on the Santa Clara Valley floor and in areas that drain to the San Francisco Bay at a minimum ratio of 2:1 (compensation : impact), on an acreage basis, for a total of 3.6 acres of enhanced or restored habitat to compensate for 1.8 acres of project encroachment within the 100-foot setback. With this compensation mitigation, the project would have a less than significant project-level impact from encroachment on riparian birds and habitat and would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community.

- o. The proposed uses are not fundamentally incompatible with riparian habitats.

Analysis: Section 1B of the City's Riparian Corridor Policy Study defines land uses that are incompatible with riparian systems to include uses which typically generate littering and/or dumping, off-road vehicle use, removal of native vegetation, uses that create noxious odors or use, store, or create toxic materials, and uses that generate high volumes of vehicular traffic. Portions of the ground floor retail and upper floor office, portions of the underground parking garage and the limited at-grade driveway for vehicles to access the underground parking garage, planting area with native landscaping, and the 4-foot wide pathway are would be within the 100-foot riparian setback area. There are no off-road vehicle uses within this area. The project would not result in any of the uses defined to be fundamentally incompatible with riparian habitats and the project's land use does not typically result in any of the described incompatible land use categories. Permit conditions for the project require the site and its publicly-used areas to be maintained free of litter, refuse, and debris. Therefore, the project is not fundamentally incompatible with the riparian habitat.

- p. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the Setback Area.

Analysis: The project was analyzed in the Draft SEIR for operation and construction impacts to adjacent properties and riparian corridor. The project would be required to implement the site-specific geotechnical conditions. Based on the geotechnical exploration prepared for the site, the sandy layer is potentially liquefiable, and the eastern Guadalupe riverbank would be subject to failure during a seismic event. The project would comply with City policies, existing regulations, and recommendations of the site-specific geotechnical report and would not expose adjacent or nearby properties to any geologic hazards. Therefore, the

impacts related to seismic ground shaking and seismic related ground failure would be less than significant. In addition, the project would comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. Valley Water is currently performing a two-month work (from July 22, 2021 to September 24, 2021) to repair the erosion occurred at the eastern bank near northwest edge of the site. With the implementation of the above conditions and the compliance with the City policies and regulations, the development would not negatively impact the bank stabilization work.

- q. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Analysis: Development of the project will not have negative effects on properties located adjacent or downstream with the implementation of Mitigation Measure BIO(C)-1.1. The majority of the adjacent developments have reduced setbacks within the 100-foot riparian setback, including developments encroaching within approximately 25-30 feet. The project is required to comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. Stormwater will be treated locally then discharged to the existing storm drain systems along South Almaden Boulevard and Woz Way. Therefore, the project would not be detrimental or injurious to adjacent and/or downstream properties.

Section A.4.b of the Riparian Policy 6-34 requires that lighting should not be directed into riparian corridors. The project would include shielded lighting fixtures to direct light downwards. The Photometric Plan included in the project plan indicates that the project would have minimal light spillage to the riparian corridor. In addition, all building mounted and exterior site feature lighting (not required for code compliance and safety) will be controlled on separate lighting control zones and system, and will be turned "off" between the hours of midnight and 6:00 AM to minimize light within the riparian buffer at night.

Section A.5 of the Riparian Policy 6-34 strongly encourages restoration and rehabilitation of riparian corridors to be included in the riparian project design and implementation. As discussed above, the project will implement the compensatory mitigation as described in Mitigation Measure BIO(C)-1.1 which requires riparian habitat to be enhanced or restored to native habitat along the immediately adjacent riparian corridor, and/or off-site on the Santa Clara Valley floor and in areas that drain to the San Francisco Bay at a minimum ratio of 2:1 (compensation : impact), on an acreage basis, for a total of 3.6 acres of enhanced or restored habitat to compensate for 1.8 acres of project encroachment within the 100-foot setback. The project design includes native vegetation adapted to the Santa Clara Valley watershed to be planted along the western property line to help enhance/restore the riparian corridor.

Section A.6 the Riparian Policy 6-34 requires project design and implementation to include erosion-control measures in conformance with the City Council Policies 6-29

and 8-14 (Stormwater Policies) to avoid soil erosion and to minimize runoff. As discussed above, the project would comply with these Stormwater Policies, which are also included in Condition No. 37.5) and Condition No. 37.6).

This project is not subject to the bird-safe design guidance outlined in City Council Policy 6-34 since the project site is south of State Route 237. However, the project would incorporate bird-safety design measures at the building's north, west, and south-facing façades that encroach entirely or partially within the 100-foot riparian setback to comply with Leadership in Energy and Environmental Design (LEED) Pilot Credit 55, Bird Collision Deterrence, as describe in MMRP, MM BIO-1.1 & MM BIO-1.2. From 0-36 feet above grade and 0-12 feet above any green roof, no more than 15% of the glazed area will have a Threat Factor rating higher than 75. All glazed corners or fly-through conditions must have a Threat Factor rating of less than or equal to 25. All structures other than the main buildings on site, including but not limited to handrails, guardrails, windscreens, noise barriers, etc., must be constructed entirely of materials with a Threat Factor rating of 15 or lower. The combined façades will achieve a maximum total Bird Collision Threat Factor rating of 15 or lower. To ensure that all bird-safe design considerations have been met, a verification letter or plan is required to be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of any building permits. The plan shall be accompanied by a letter signed by a qualified biologist, verifying that the building design complies with LEED Pilot Credit 55: Bird Collision Deterrence. A three-year post-construction monitoring plan will be required to routinely monitor the effectiveness of the building and the site design in preventing bird collisions.

Based on the information provided by qualified biologists and the above analysis, the project qualifies for a setback reduction because all the circumstances under Section A.3 can be found. With implementation of the mitigation measures specified in the MMRP, the compliance with City Council Policies 6-29 and 8-14 to avoid soil erosion and minimize runoff, and the compliance with standard permit and environmental conditions, the project would be consistent with the City's Riparian Corridor Policy.

6. Downtown Design Guidelines.

Per Section 20.70.500 of the Zoning Ordinance the project is subject to design guidelines adopted by the City Council. The 2004 Downtown Design Guidelines apply to the project because the project application was filed in January 2019, prior to the effective date of April 23, 2019 of the current San Jose Downtown Design Guidelines and Standards. The project complies with the 2004 Downtown Design Guidelines, as analyzed below:

Urban Form and Massing

A project's massing should correspond to the geographical conditions and patterns of the urban form of the immediate context of the project site.

The building massing is shaped by the irregularly long and narrow site boundary. The massing along the street sides continues the downtown development pattern of buildings lining the edges of streets. The western façade follows the project's curved river side boundary, which results in a dynamic appearance from surrounding viewpoints, such as Discovery Meadow, Woz Way, West San Carlos Street, and Highways 87 and 280. The building massing is divided into two towers starting at Level Five creating additional visual interest. The towers incorporate recessed bays and elevated terraces to create massing variations.

Project Base/Street Wall

Buildings should be designed at the ground level to facilitate social interaction by incorporating transparency and attractive, high quality materials. Further, the Guidelines state that building frontages should appear safe, welcoming, and open to the public. The Guidelines also encourage ground level occupancy by retail, entertainment, service retail, cultural or other active, high intensity pedestrian uses.

The project's ground floor design provides a strong urban street presence on three sides (South Almaden Boulevard, Woz Way and Guadalupe River) and promotes pedestrian activities. Active uses such as retail space and office lobbies are present along these three frontages. All the active frontages on the ground floor are recessed approximately 12 to 15 feet from the columns supporting the buildings above to provide extended pedestrian walkways with a ceiling height of 24 feet. Due to the lengthy South Almaden Boulevard frontage (approximately 816 feet), the ground floor incorporates two paseos with a minimum width of 20 feet through the building to provide pedestrian circulation between South Almaden Boulevard and the Guadalupe River Trail. These paseos are all lined by active uses such as retail and amenity spaces. In addition, a plaza is located at the corner of South Almaden Boulevard and Woz Way. This open plaza provides outdoor seating and activity areas, as well as vertical circulation by including escalators near the south edge of the building. All the ground floor active space would have transparent storefront glass to provide an inviting and pleasant outdoor walking experience.

Architecture and Materials

The Guidelines state building architecture should integrate the top, middle, and base into a unified architectural statement. The Guidelines encourage using proportion and scale to reduce building bulkiness.

The project building distinguishes the base, middle and top for each side of the façade. The base of the building is strongly defined by the recessed active ground floor space and columns. The middle consists of the podium (Levels 2 to 4) emphasizing vertical elements and the towers from levels 5 to 15 emphasizing horizontal elements. The top includes penthouses, which significantly step back from the lower floors and screen the mechanical rooms and elevator shafts with a distinct façade treatment.

As discussed above, the building massing is modulated by incorporating vertical breaks (notches) within the towers' east and west façades. These façades include rows of horizontal fins, and the Discovery Meadow side of the building incorporates three successive tones to divide the long horizontal façade into distinct sections. The transition of color would occur one structural bay next to the notches, which helps further break up the massing, adding vibrancy to building façade.

7. **Council Policy 6-30 Public Outreach Consistency.** Council Policy 6-30: Public Outreach Policy was followed in order to inform the public of the project. Three signs describing the project have been posted on the project site since April 23, 2019. A joint community and environmental scoping meeting was held on June 10, 2019 to inform the surrounding community of the project. A second community meeting was held on June 3, 2021 to provide updates to the community members. Both the community meeting notice and notice of the public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website.
8. **No Net Loss of Housing Units (RHNA).** Approximately 1.38 acres of the project site is identified on the 5th Cycle Housing Element Inventory as a site intended to accommodate a portion of the City's regional housing need allocation (RHNA). The project is wholly commercial and does not include any residential units.

Pursuant to Govt. Code Section 65863 (No Net Loss Law) jurisdictions must ensure development opportunities remain available throughout the planning period to accommodate the regional housing need allocation (RHNA). In the case that a city approves a development of a parcel identified in its Housing Element sites inventory with fewer units than shown in the Housing Element, it must either make findings that the Housing Element's remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category. The remaining sites identified in the City's Housing Element Inventory are adequate to meet our remaining RHNA for the planning period by income category. The current unmet RHNA need by income level is indicated in Table B of the 2020 Housing Element Annual Progress Report.

Table B- 2020 APR			
Very Low Income	Low Income	Moderate Income	Above Mod Income
7983	5323	3722	4073

There are three recently approved, affordable development projects that have received entitlements and are anticipated to pull building permits this year. This would result in a reduction of the Low Income RHNA unmet need by 259 units, and a reduction of Above Moderate Income RHNA unmet need by 29 units. From January 1, 2021 through June 1, 2021, there have been 426 entitled Above Moderate Income

units and 266 entitled Low Income units. This further reduces the unmet need by 692 units. The unmet Low Income RHNA need with the development is 16,602; the unmet Above Moderate Income RHNA is 3,618. The remaining capacity of sites identified in the Housing Element for each category is 16,928 and 9,600, respectively. Therefore, the remaining sites identified in the City's Housing Element Inventory are adequate to meet our remaining RHNA for the planning period by income category.

9. **Environmental Review.** The City of San José, as the lead agency for the project, prepared a Draft Supplemental Environmental Impact Report (Draft SEIR) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). The Draft SEIR was circulated for public review and comment from July 31, 2020 through September 14, 2020. The EIR prepared for this project concluded that implementation of the project would result in a significant and unavoidable impact on construction, operational, and cumulative PM_{2.5} air quality, cumulative biological resources, and cumulative noise and vibration.

Mitigation measures were also developed to lessen the following impacts to less than significant levels, including bird-safe design features, entering into a Site Cleanup Program with the Santa Clara county Department of Environmental Health, and implementing a construction noise logistics plan that includes specific measures for reducing nighttime construction noise.

Standard Permit Conditions are also required to ensure no impacts occur during construction and operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, compliance with the Santa Clara Valley Habitat Plan, compliance with the California Building Code for seismic safety of the building, erosion control during construction activities, protection of unknown subsurface resources, protection of construction workers from hazards related to contaminated soils, water quality impacts during construction, and impacts to public facilities.

CEQA Alternatives

As required under CEQA, the Draft SEIR identified and evaluated alternatives to the project. Three critical factors considered in the selection and evaluation of the alternatives included: (1) the significant impacts from the project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. The environmental analysis considered four project alternatives: 1) No Project-No New Development; 2) Reduced Development Alternative 1 (Option 1) – Reduced Square Footage with 35-Foot Setback; 3) Reduced Development Alternative 1 (Option 2) – Reduce Square Footage With 100-Foot Setback; and 4) Reduced Development Alternative 2 – Square Footage Reduction and Increase in Height.

The Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35-Foot Setback Alternative was found to be the environmentally superior alternative

because it would increase the riparian setback beyond what the project currently has without increasing air quality impacts. However, this alternative would not meet one of the project objectives, which is to maximize the use of an underutilized infill site compared to the Project.

Public Comments

The City received 12 written comment letters during the public circulation period. Comments were submitted by five agencies, which were the California Department of Transportation (DOT) who submitted two letters, San Francisco Bay Regional Water Quality Control Board (SFBRWQCB), Santa Clara Valley Transportation Authority (VTA), Valley Water, and the County of Santa Clara Roads and Airports Department. The DOT asked for more information on potential traffic impacts on the adjacent highway and more information on project runoff in case of a 100-year flood event. The County Roads and Airports Department encouraged the City to do a cumulative traffic analysis and provide more on-site parking. The VTA requested impacts to light rail to be disclosed and supported the design of separated bike lanes between the sidewalk and drop-off zones and the inclusion of 319 bike parking spots. The SFBRWQCB expressed that mitigation measure BIO-1.1 may be infeasible in that it may be challenging to find 3.6 acres of riparian land to restore. Valley Water requested more information be provided regarding the storm water outfall alignments and riparian mitigation requirements.

The six organizations and individuals that commented on the SEIR were the California Native Plant Society (CNPS), Guadalupe-Coyote Resource Conservation District (GCRCD), Guadalupe River Park Conservancy, Santa Clara Valley Audubon Society (SCVAS), the Sierra Club Loma Prieta Chapter, and Jean Dresden. The CNPS expressed concerns over the project's encroachment within the minimum 100-foot setback, finding adequate land for mitigation measure BIO-1.1, and inconsistencies with the Santa Clara Valley Habitat Plan. The GCRCD requested that the City select an alternative in the SEIR that meets the 100-foot setback, and expressed concern over impacts to birds, riparian habitat health, local transportation impacts, and environmental awareness. The SCVAS voiced concerns over the project's compatibility with Council Policy 6-34, growth inducing impacts, consistency with Downtown Strategy 2040 findings, flooding, inadequate alternatives, and impacts to Discovery Meadows Park and the riparian habitat. The Sierra Club requested information on soil removal and staging operations and expressed concern over various air quality, biological resources, geology, hazards, hydrology, noise, utilities, mandatory findings of significance, and alternatives impacts. Jean Dresden expressed concern over shade impacts to Discovery Meadows and Guadalupe River Park, dewatering risks, and inadequate alternatives.

None of the comments received addressed an issue of sufficiency of the SEIR and no new mitigation measures are required. SEIR text revisions were included in the First

Amendment to address habitat agency conformance, storm water, park shading and other suggested texts from agencies.

Additionally, the City responded to all comments received on the Draft SEIR and incorporated them into the First Amendment to the Draft SEIR. The First Amendment, taken together with the Draft SEIR, and the MMRP constitutes the Final SEIR. The Draft SEIR and First Amendment to the Draft SEIR (FSEIR) are available for review on the project page on the City's Active EIR website at: <https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/almaden-office-project>.

Response to Public Comments Addressed in First Amendment

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft SEIR for the project includes written responses to all comments received during the public review period for the Draft SEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft SEIR address significant environmental points and comments on the content and adequacy of the SEIR. The responses and comments provide clarification and refinement of information presented in the Draft SEIR and, in some cases, correct or update information in the Draft SEIR. No significant new information has been added to the SEIR since publication of the Draft SEIR; therefore, the Draft SEIR does not need to be recirculated.

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the Draft SEIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to a Draft EIR is not "significant" unless the Draft EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

Statement of Overriding Considerations

The City Council adopted and made a Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant and unavoidable impact of the Project is acceptable in light of the economic and social considerations noted below, because the benefits of the Project outweigh the significant and unavoidable impact of the Project. The City Council finds that the overriding considerations set forth below constitutes a separate and independent ground for

finding that the benefits of the Project outweigh its significant and unavoidable environmental impact and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan, Zoning Ordinance and the Downtown Strategy 2040 Area Plan.

Benefits of the Project:

- a. Major Strategy #3 Focused Growth: The Project site is located within an identified Growth Area, as specified in the Envision San José 2040 General Plan. The project would significantly intensify the site with a mixed-use development composed of commercial and office in a pedestrian-friendly design and located in proximity to a variety of services, employment centers, educational institutes, and transit. The City's calculated employment to square footage ratio is one job per 300 square feet of developed commercial, industrial, retail, and office uses. The project would develop approximately 1,526,252 square feet of office and commercial space, which would add approximately 5,088 new jobs to the Downtown area. Planning such sites for higher density mixed-use development enables the City to provide economic and employment benefits consistent with the community objectives of the Envision San José 2040 General Plan.
- b. Major Strategy #9 Destination Downtown and #11 Design for a Healthful Community: The Project introduces new employment opportunities by providing up to 1,487,115 square feet of office space and 39,137 square feet of active commercial uses at the ground floor, consistent with the rhythm and activities of the Downtown area. Employees will be able to partake in the commercial uses located on the ground floor and contribute to business growth in the Downtown area by increasing the customer base for downtown businesses.
- c. General Plan Land Use Goal LU-1.1, LU-3, LU-3.4, and LU-5.7: The Project encourages the use of alternative transportation options through its proximity to public transit and the inclusion of bicycle parking for employees and retail users as well as on-site showers and lockers for bicycle users. The project is located approximately 560 feet from the nearest Light Rail station, 600 feet from the nearest bus stop, and one-half mile from Diridon Station. The project includes a separated bike lane between the sidewalk and drop-off zones along the eastern and southern project frontages on Almaden Boulevard and Woz Way to aid in bike lane connectivity. The Project would increase the number of employees that continuously visit the Downtown area, which would increase the survivability of retail and encourage new retail services and amenities to locate in the area. The ground floor of the development will have retail opportunities, active uses, and storefront designs to enhance the pedestrian experience in Downtown. The ground floor active uses will also provide easier and more direct access to the Guadalupe River Trail. Ground floor retail amenities will not only serve the employees of the towers, but also workers and residents in the Downtown area. The project will also

increase jobs and economic development and increase the City's jobs-to-employed ratio, providing approximately 5,088 new jobs.

- d. Downtown Urban Design Policy CD-6.1, CD-6.2, and CD-6.6: *The project has a floor-area ratio (FAR) of 11.1, making it a very dense commercial project given the FAA restrictions on height for the parcel. This amount of density will contribute to the Downtown's growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The project has undergone extensive design review so that its scale, quality, and character strengthen Downtown's status as an urban center. The project would contain two towers connected via podium levels. The ground floor would contain an open-air paseo with commercial amenities allowing pedestrians to pass through the building to access the Guadalupe River Trail and would enhance the pedestrian experience from ground-level. The development will be a recognizable development from the sky, has a strong design presence and connectivity at street level, and offers a unique connected tower approach to development in Downtown San José.*

Each of the above benefits of the Project were weighed against its significant unavoidable impact identified in the EIR. The City Council determined that these benefits outweigh the adverse environmental effect of the Project and, therefore, further determined that the adverse environmental effect is acceptable and overridden.

10. Site Development Permit Findings.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: As discussed above, the project is consistent with the General Plan Land Use/Transportation Diagram designation of Downtown, as the Downtown land use designation supports a mix of commercial office and retail at high densities. The project is also consistent with the General Plan policies listed above.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: As discussed above, the project is consistent with the height, setbacks, and parking requirements of the DC Downtown Primary Commercial Zoning District. The DC Zoning District does not require any minimum setbacks. The project is subject only to the height limit necessary for the safe operation of the San Jose International Airport; and conditions of approval are included requiring a No Hazard Determination to be obtained from the FAA prior to issuance of Building Permits. The project requires 304 bicycle parking spaces and the project provides 319 bicycle parking spaces. With maximum parking reduction that requires implementing a TDM plan, the project would require 1,279 parking spaces. The project would provide 1,279 parking spaces by implementing measures included in the TDM plan dated

July 14, 2021 prepared by Hexagon Transportation Consultants, Inc. The project applicant is required to implement the TDM plan for the life and use of the building. The project incorporates an alternative parking design, using stackers, tandem and valet parking, which is allowed with a Special Use Permit per Section 20.90.200 of the San José Municipal Code based on an adequate parking management plan. The parking management plan provided is adequate as described above. Parking attendants would manage the parking of the garage and maintenance of the parking management plan would be a condition of approval for the site. Additionally, the project requires the parking spaces to be maintained throughout the life of the project.

- c. The Site Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency.

Analysis: As discussed above, the project is consistent with City Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design as discussed in the Riparian Corridor Policy Section above. Council Policy 6-30: Public Outreach Policy was followed in order to inform the public of the project. The project is also consistent with Council Policy 4-3, Outdoor Lighting Policy, in that all outdoor lighting is directed downwards, and the project would generate zero to minimal light spillage to the adjacent riparian corridor per the Photometric Plans (Sheets LT-501 & 502) shown on the approved project plans.

- d. The interrelationship between the orientation, location, and elevation of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: Two high-rise towers with a podium are within the development boundary. As discussed above, the entire building massing follows the unique site configuration. The project design directs all vehicular circulation to the underground garage and promotes pedestrian activities on the ground floor at the project's two public street frontages and one public space frontage. The paseos under the building provide "mid-block" connections from the public street to the river side and vice versa, and a plaza at the street corner will provide space for outdoor seating, activities and public arts. Most of the pedestrian walkways, paseos, and plaza are lined by active uses such as retail and amenity space, and office lobbies.

As discussed above, the two towers and the podium together are mutually compatible and aesthetically harmonious. The entire building applies consistent design concepts, such as massing articulation and façade treatment on the same skyline level, podium level and pedestrian level treatment, and apply same colors and materials.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: As discussed above, the project is compatible with adjacent development. The project is mostly surrounded by existing and planned office development to the north, east and the south. A nine-story office building is to the north of the project site. The Convention Center and an 18-story office tower are located to the east across South Almaden Boulevard. Two 20-story office towers are planned on the existing single-family residential community to the south across Woz Way with a height of approximately 297 feet and a total building area of approximately 1.8 million square feet. The existing and project office developments and the Convention Center have contemporary architectural styles. The project office towers would be compatible with this existing and planned office development in terms of use, project scale, massing, and the architectural style. The Children's Discovery Museum is located to the west of the site, separated by the Guadalupe River and the Discovery Meadow. Hence, the project would not result in an inharmonious design to the museum. The project would offer dynamic views from the Discovery Meadow with the building's curvilinear outline and gradient color variation on the building facade.

- f. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project development occurs in an area bounded by streets, existing office development, and the Guadalupe River and Trail. There are existing and planned high-rise office buildings, the Convention Center, surrounding the site. The project includes permit conditions and mitigation measures to ensure that adjacent properties and individuals are not negatively impacted by construction noise, vibration, dust, and erosion. These measures include specific allowable construction hours, relocation of nearby neighbors during 24-hour construction operations if requested, idling time limits for machinery, and more. The operation of the project is primarily commercial office and therefore would not be a generating source for excessive noise or odor. The project has been evaluated for compliance with the City's stormwater treatment requirements. Therefore, the project would not have an unacceptable negative effect on adjacent property or properties.

- g. Landscaping, irrigation systems, walls, and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood

Analysis: As shown on the approved plan set, the project would provide landscaping along the west and south sides of the site, and on multiple elevated terraces. The trash collection would occur in the underground parking garage. All mechanical equipment is screened on the roof and not visible from the street or surrounding buildings.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: As described above, the project contains parking consistent with the Zoning Ordinance with TDM measures and alternative parking arrangement (alternative parking design with parking stackers, tandem and valet parking), and has adequate pedestrian, bicycle, and vehicular access into the site. Pedestrians can access the building from the lobby or retail spaces. The project includes a separated bike lane between the sidewalk and drop-off zones along the eastern and southern project frontages on Almaden Boulevard and Woz Way. The site would have three driveway access points. One is from Woz Way, one is from South Almaden Boulevard at the northeast corner of the project site which would be restricted to trucks only and would provide access to the loading docks to the second below-grade parking garage, and one at South Almaden Boulevard at the South Almaden/Convention Center intersection. The project was reviewed by the Department of Public Works, Department of Transportation and Fire Department and was found to be consistent with regulations and standards for vehicle, emergency vehicle, and pedestrian access.

- 11. Special Use Permit Findings.** A Special Use Permit is required for the alternative parking arrangement (parking stackers, tandem and valet parking) and the 15 commercial condominiums. The findings of the Special Use Permit, pursuant to San José Municipal Code Section 20.100.820, must determine that:

- a. The special use permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies; and

Analysis: In addition to the discussion above, the 15 commercial condominium units for the commercial office is consistent with the General Plan land use designation of Downtown as commercial uses are permitted in the DC Downtown Primary Commercial Zoning District.

- b. The special use permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: In addition to the Zoning Ordinance conformance section, Section 20.175.042 of the Municipal Code requires the minimum unit size for nonresidential condominium units to be 750 square feet. Sheet 1 of the Vesting Tentative Map plan indicates that the commercial condominium unit will have a minimum size of 750 square feet.

The project incorporates an alternative parking arrangement (alternative parking design with parking stackers, tandem and valet parking) and the parking management plan is adequate to meet Zoning Code Section 20.90.200 as analyzed above.

- c. The special use permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: See discussion above under Section 7.c. There are no applicable City Council policies other than those discussed above.

- d. The proposed use at the location requested will not:
- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - iii. Be detrimental to public health, safety, or general welfare; and

Analysis: As described above, the project, including the commercial condominiums, would not impact the peace, health, safety, morals or welfare of persons residing or working in the surrounding area as the use is mainly contained within the project, and the operation of the commercial office would not impact the area outside of the building. This commercial condominium units would not impair the utility or value of property or persons in the immediate area as the office use would be mainly contained in the building.

The alternative parking arrangement would be managed by parking attendants in the underground parking garage and maintained throughout the life and use of the building to meet the required number of parking spaces, as specified in the approved parking management plan. Therefore, the alternative parking arrangement would not adversely affect the surrounding area and would not be detrimental to public health, safety, or general welfare.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: As noted above, the 15 commercial condominium units would exceed the minimum square footage requirements for commercial condominiums. The project accommodates the development features such as parking and loading facilities within the underground garage, and landscaping along the west and south sides of the site and on the elevated terraces.

- f. The proposed site is adequately served:
- i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - ii. By other public or private service facilities as are required.

Analysis: The overall project is adequately accessible by the downtown street network and said streets have the capacity to handle traffic generated by the

project, as analyzed in the SEIR. The site is served by the Santa Clara Valley Transportation Authority (VTA) and is approximately 0.7 miles from Caltrain, Altamont Commuter Express (ACE), and Amtrak stations. The project area is served by many VTA bus routes with high-frequency service. The nearest bus stops are located at the San Carlos Street/Woz Way intersection (Route 23) and San Carlos/Convention Center intersection (Routes 23, 168, 523). The site is also within 1,000 feet of the Children's Discovery Museum Light Rail Station and Convention Center Light Rail Station.

As discussed above, the subdivision of the commercial space would not create any additional need for access.

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: As stated above in Site Development Permit Finding f, the project would not have any unacceptable negative effect on the adjacent properties.

- h. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development or in the city as a whole.

Analysis: As discussed above, the project, which is a common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity in that the size of the commercial common interest units will be conditioned to meet the minimum size requirement so as to adequately accommodates a variety of potential uses, and the anticipated uses such as restaurant, office and retail uses will add to the economic viability of the area.

- i. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

Analysis: A Declaration of Covenants, Codes, and Restrictions will include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development. City staff will review the project covenants prior to final map approval for compliance with this requirement.

- j. The proposed common interest development includes sufficient provisions of the retention of such common areas for the use of all owners of separate interest therein.

Analysis: The Declaration of Covenants and Restriction will state that each owner shall have, as appurtenant to his unit, an undivided interest in the common area. This will ensure that each common interest development has sufficient retention of common areas for use by all owners as noted in the conditions of approval. City staff will review the project covenants prior to final map approval for compliance with this requirement to the satisfaction of the Planning Director.

- k. Pursuant to Section 20.90.200.B, in addition to any other findings required for a special use permit, the director, or planning commission on appeal, may approve such off-street parking facility arrangements only upon making the following findings:
- 1) The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.90 of this title;
 - 2) It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use; and
 - 3) The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

Analysis: As discussed in the Zoning Conformance section, the project would provide a total of 1,279 parking spaces which would meet the parking requirements after applying a 57.5% parking reduction allowed by Zoning Code Chapter 20.90 and Chapter 20.70. The parking management plan provided on Sheet P-101 of the project plans is adequate in that the alternative parking design using parking stackers includes parking attendant procedures for managing the tandem and valet parking., ensuring all required parking spaces are available for use With Condition No. 7 which requires that these parking spaces be maintained throughout the life of the project, it is reasonably certain that this underground parking will continue to be provided and maintained at the same location during the life of the building or use. All the parking spaces are located within the underground parking garage below the two office towers and the podium. Office and retail tenant can directly access the underground parking garage through elevators and/or stairs. The parking spaces are convenient and accessible to the buildings or uses to be served.

In accordance with the findings set forth above, a Special Use Permit and Site Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. This City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Special Use Permit and Site Development Permit (collectively “Permit”) within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire five years from and after the date of issuance hereof by the City Council, if within such time period, the use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this Permit and the permittee’s agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San

Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Scope and Use Authorization of the Permit.** Subject to all conditions herein, this Permit will allow the construction of a 16-story office building with two towers totaling approximately 2.1 million square feet, including 37,603 gross square feet of ground floor retail and amenity space and 1,433,301 gross square feet of commercial office space with an alternative parking design (three levels of underground parking including stackers, tandem and valet parking) on a 3.57-gross acre site; and to allow up to 15 commercial condominium units and extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of construction (approximately 51 months).
6. **Implement Transportation Demand Management (TDM) Plan.** The Permittee shall implement all the following TDM measures included in the TDM plan prepared by Hexagon Transportation Consultants, Inc. dated July 14, 2021 for the life and use of the building. Any changes to the selected measures requires the issuance of a Permit Adjustment or Amendment
 - a. A transit use incentive program for the project's employees, such as on-site distribution of passes or subsidized transit passes for local transit system.
 - b. Provide on-site support services such as ground-floor food/beverage-serving uses and other amenities for the benefit of the project's office workers.
 - c. Provide on-site showers and lockers to compliment the on-site bicycle parking and encourage alternative transportation for the project's employees.
7. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance, as amended. Any future parking reductions proposed by the permittee in accordance with any changes to the Municipal Code regulating minimum required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment.
8. **Conformance to Plans.** The development of the site shall conform to the approved Special Use Permit plans entitled, "Special Use Permit, File No. SP20-005, for South Almaden Offices" dated revised July 14, 2021 on file with the Department of Planning, Building and Code Enforcement as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San

José Municipal Code, Title 24). The plans are referred to herein as the “approved plans” or the “Approved Plan Set.”

9. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. This Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
10. **Parking Management Plan.** The project parking shall be operated in perpetuity in accordance with the Parking Management Plan included in Sheet P-101 of the approved Special Use Permit plans entitled, “Special Use Permit, File No. SP20-005, for South Almaden Offices” dated revised July 14, 2021 on file with the Department of Planning, Building and Code Enforcement.
11. **FAA Clearance.** Prior to issuance of any Building Permit for construction, the permittee shall obtain from the Federal Aviation Administration (FAA) a “Determination of No Hazard” for each building high point. The permittee shall initiate the regulatory FAA review by filing a “Notice of Proposed Construction or Alteration” (FAA Form 7460-1) for each roof-top corner and any additional highest point(s) of the project structure. The data on the forms should be prepared by a licensed civil engineer or surveyor at a “1-A” accuracy standard using NAD83 latitude/longitude coordinates out to hundredths of seconds, and NAVD88 elevations rounded off to next highest whole foot.
12. **FAA Clearance Permit Adjustment.** Prior to issuance of any Building Permit for construction, the permittee shall apply for and obtain a Permit Adjustment to incorporate any and all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., installation of roof-top obstruction lighting or construction-related notifications.
13. **Subsequent Permit Adjustments.** Any Permit Adjustment/ Amendment application filed by the permittee that would increase the maximum structure elevations or change the location of the structure’s highest point(s), will be referred by the Planning, Building, and Code Enforcement Department and the Airport Department for review prior to approval.
14. **Avigation Easement.** Prior to the issuance of a Building Permit for vertical construction, the permittee shall grant an Avigation Easement to the City of San José. Contact the San José Airport Department (408-392-1193) to initiate the easement dedication process.
15. **Construction Cranes.** Prior to issuance of any Building Permit for vertical construction, and prior to the required filing with the FAA for airspace obstruction review of temporary construction cranes for vertical construction, the permittee shall coordinate with the San Jose Airport Department to formulate an agreement on crane elevation and operational parameters. Compliance with an Airport-approved

construction crane agreement shall become a condition of Building Permit issuance for vertical construction. Contact the San José Airport Department (408-392-1193) to initiate the construction crane agreement coordination.

16. **Timing for Removal of Existing Parking Lot.** The existing parking lot shall not be removed until the City has issued the applicable grading permit.
17. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
18. **Privately Owned, Publicly Accessible Open Spaces.** The project's plaza at the street corner of the property, the paseos connecting pedestrian circulation between South Almaden Boulevard and Guadalupe River Trail, and the pedestrian corridors along the project's street sides and Guadalupe River Trail side on the property (as shown on Sheet A-013 of the approved plan set) will be privately owned, publicly accessible ground level open spaces. These spaces shall be areas designated for use by the general public while owned and maintained by a private owner, as described by the following:
 - a. Permittee (including property owners and successors in interest of Permittee or property owner) providing this publicly accessible open space shall, to the fullest extent permitted by law, hold harmless and indemnify the City of San José, its officers, agents and employees, from any and all damage or injury caused in any manner by the design, construction, use, or maintenance of the open space;
 - b. Permittee (including property owners and successors in interest of Permittee or property owner) shall be solely liable for any and all damage or loss occasioned by any act or negligence in respect to the design, construction, use, or maintenance of the open space.
 - c. Liability Insurance satisfactory to the City's Risk Manager and the City Attorney, naming the City of San José and its officers and employees as additional insureds, shall be provided for all such spaces. The property owner shall record with the County Recorder and provide a copy to the City prior to the issuance of building permits a special restriction on the property satisfactory in substance to the Department and sufficient to give notice to subsequent owners, lien holders, mortgagors, tenants, and others having any economic interests in the property of the open space requirement and the means by which the requirement has been, and must continue to be, satisfied.
 - d. Maintenance - Open spaces shall be maintained at no public expense. Permittee (including property owners and successors in interest of Permittee or property owner) for the property on which the open space is located, shall maintain the open space by keeping the area clean and free of litter and keeping in a healthy state any plant material that is provided for the life of the publicly accessible open space and subject project.

- e. Hours of Operation –The privately owned, publicly accessible open spaces shall be publicly accessible from 7AM to 6PM every day. The privately owned, publicly accessible open space may be temporarily closed due to programming, construction, repair, or maintenance. Should the space be closed for more than 24 hours, except in the event of an emergency, the owner or permittee shall contact the Planning Department at least 5 days in advance of the closure and post signage, plainly visible from the public sidewalks, that indicates the reason for the closure, an estimated date to reopen, and contact information for an owner representative. Notwithstanding the foregoing, to the extent authorized by the City of San Jose in accordance to the City requirements for closure of public space, portions of the privately owned, publicly accessible open space may be set aside for the exclusive use of an adjacent user.

The Permittee (including property owners and successors in interest of Permittee or property owner) shall install and maintain in good condition signage that is clearly readable and visible from the public street or public sidewalk at every entry to the public plaza within 20 feet of the public right-of-way.

19. **Green Building Requirements for Tier 2 Non-Residential Development** (≥25,000 square feet). This development shall be subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this Permit, the permittee shall pay a Green Building Refundable Deposit applicable to the gross square footage of said buildings which are approved through this Permit. The project shall achieve the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within one year after the Building Permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

20. **Downtown Financing Plans.** The San José City Council ("City") approved the (i) Envision San José General Plan 2040 ("General Plan") in 2011, (ii) Diridon Station Area Plan ("Diridon Plan") in 2014, and (iii) Downtown Strategy 2040 ("Downtown Strategy") in 2018. The Diridon Plan and Downtown Strategy, in conjunction with the General Plan, provides the framework for development located in Downtown San José.

The City is in the process of developing additional financing plans for the Diridon Plan and the entire Downtown to fund public improvements, affordable housing, and other amenities and services. The City Council has adopted a Commercial Linkage Fee Ordinance and future financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) and/or (vi) other financing mechanisms or combination or amendments thereof.

The City is in the process of updating the Diridon Basic Infrastructure Impact Fee. Updates to the Diridon Basic Infrastructure Impact Fee may include expanding the impact fee to other areas of Downtown. Further, the City is developing a Downtown Transportation Plan that may require funding to construct the public improvements identified in the Downtown Transportation Plan. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for public improvements, affordable housing, and other amenities and services in the Downtown.

By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans applicable to Downtown, as may be amended, which may include one or more of the financing mechanisms identified above.

21. **Commercial Linkage Fee.** In accordance with City Council Resolution No. 79705, as may be amended, prior to the issuance of any building permit or other approvals, the permittee shall pay the required commercial linkage fee.
22. **Construction Hours.** Within 500 feet of residences, construction shall be limited from 7:00 AM to 7:00 PM on weekdays. Extended construction hours are permitted for Saturday work from 7:00 AM to 7:00 PM. Up to 12 24-hour concrete pours per year are allowed over the course of construction (51 months), on any day of the year.
23. **Colors and Materials.** All building colors and materials shall be those specified in the Approved Plan Set.
24. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
25. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
26. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage and shall include daily damp washing of all exterior walls and sidewalks along the project's frontage.
 - b. The permittee shall clean the public right-of-way immediately adjacent to the subject site before 8:00 a.m. each day.
 - c. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.

27. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
28. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
29. **No Sign Approval.** Any exterior signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. All signs shall be subject to review and approval by the Director of Planning through a separate Sign Permit application.
30. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
31. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
32. **Generators.** This Permit includes the approval of one 2,000-kilowatt and two 750-kilowatt emergency generators powered by diesel engines located on the ground floor as shown the approved plan.
33. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number *SP20-005* shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Other.* Such other state or city adopted requirements as may be specified by the Chief Building Official.
34. **Fire Department Clearance.** Hazmat clearance and compliance with all applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

35. **Fire Department Requirements.** The project shall conform to the requirements of the Fire Department at the building plan review stage to the satisfaction of the Chief Building Official and the Fire Chief.
36. **Garbage Collection within Parking Garage.** The design, operation, and access to the garbage collection facilities within the below-grade parking garage shall comply with the following requirements, to the satisfaction of the Director of Integrated Waste Management.
- a. Clearance at point of entry into garage to the point of collection and throughout turn shall be no less than 15 feet unobstructed, as measured from the floor (including speed bumps or other protrusions) to the lowest physical obstruction above (i.e., fire sprinkler s, lighting, signage, conduit, structural beams etc.).
 - b. A scissor lift shall be used to move the compactors on and off the roll off collection vehicle and the lift shall be operated by the facility.
 - c. The service location shall be adequately lit.
 - d. Floor at service location shall be level.
 - e. Utilities near service location must be caged or protected by safety bollards.
 - f. All compactors and scissor lift shall be properly serviced and maintained.
37. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of any Building permits, whichever occurs first, the permittee must have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at: <http://www.sanjoseca.gov/devresources>.
- 1) **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - 2) **Transportation (see separate Traffic memo dated 6/1/2020):** This project does not require a CEQA transportation analysis because the project is located in the expanded Downtown Core and is covered under the San Jose Downtown Strategy 2040 EIR. With the inclusion of the following conditions, the subject project will be in conformance with the City of San Jose Transportation Analysis Policy (Council Policy 5-1) and a determination for less than significant impacts can be made with respect to transportation impacts.
 - a. The Woz Way/Locust Street/Almaden Boulevard Off-Site Development Improvements (as known as Woz Way Planline Improvement) prepared by

the Department of Transportation dated May 2020 on file includes a new signal at Woz Way and Locust Street, curb extensions that would reduce the pedestrian crossing distance across Woz Way from 60 feet to approximately 45 feet, installation of a bike lane adjacent to the existing crosswalk across the west leg of the intersection, installation of bike lane protected landscaping/median island along both sides of Woz Way, and the installation of a new north-south crosswalk across the east leg of the intersection.

- i) If the Woz Way Planline work has not been commenced by the 280 Woz Way (KT Urban) development (File No. H20-004) prior to building permit issuance for the Permittee's (2833 South Almaden) project (File No. SP20-005), Permittee shall construct all required public improvements for the Woz Way Planline work at its sole cost and expense, subject to the conditions below.
 - a) Permittee shall receive reimbursement for a portion of the total cost of the Woz Way Planline improvements from the owner of the 280 Woz Way development.
 - b) Permittee shall enter into a private agreement with the owner of the 280 Woz Way development project addressing the terms and conditions of the payment or reimbursement.
 - c) The Permittee's failure to receive reimbursement from the owner of the 280 Woz Way development project shall not in any way relieve Permittee from its obligation to perform the identified Woz Way Planline improvement work.
- b. Per the queuing analysis, the northbound left-turn pocket at Almaden Boulevard/Balbach Street/Woz Way intersection must be extended for a total vehicle storage capacity of 200 feet. The extension of northbound left-turn pocket is needed for both the Permittee's project (2833 South Almaden) as well as the 280 Woz Way (KT Urban) development.
 - i) If the extension of the northbound left-turn pocket extension improvement has not commenced by the 280 Woz Way (KT Urban) development prior to any building permit issuance for the Permittee's Project, Permittee shall extend the northbound left-turn pocket at its sole cost subject to the conditions below.
 - a) Permittee shall receive reimbursement for a portion of the total cost of the northbound left-turn pocket extension from the owner of the 280 Woz Way development.
 - b) Permittee shall enter into a private agreement with the owner of the 280 Woz Way development project addressing the terms and conditions of the payment or reimbursement.

- c) The Permittee's failure to receive reimbursement from the owner of the 280 Woz Way development project shall not in any way relieve Permittee from its obligation to extend the northbound left-turnpocket.

3) Grading/Geology:

- a. A grading permit is required prior to the issuance of a Public Works Clearance.
- b. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged(slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- c. If the project hauls more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- d. Because this project involves a land disturbance of one or more acres, the Permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- e. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not be limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

4) Shoring:

- a. Shoring plans will be required for review and approval as part of the Grading Permit for this project.

- b. If tie-backs are used in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Permittee or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to encroach more than 12" within the public right-of-way (i.e. soldier beams).
 - c. If tie-backs are used along the adjacent properties, APN NO(s) 264- 28-159/157/177/162, agreements between the Permittee and the adjacent property owners will need to be secured, executed and provided to the Public Works Project Engineer prior to approval of the Grading Permit for this project.
- 5) **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- a. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - b. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - c. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following: <https://www.sanjoseca.gov/home/showdocument?id=27405>.
 - d. For project outfall(s), the Permittee will be required to obtain a permit from the Department of Fish & Wildlife and a Clean Water Act Section 401 Water Quality Certification from the Regional Water Board. Additional permits from the Santa Clara Valley Water District and/or the U.S. Army Corps of Engineers may be required. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a Public Works Clearance.
- 6) **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- 7) **Flood: Zone X.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.

- 8) **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to issuance of Public Works clearance.
- 9) **Undergrounding:**
- a. The In-Lieu Undergrounding Fee shall be paid to the City for frontage adjacent to Woz Way prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2021 base fee is \$532 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
 - b. The Director of Public Works may, at his discretion, allow the Permittee to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Woz Way. Permittee shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- 10) **Assessments:** This project is located within the Basic Zone of the Downtown San José Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. Benefiting properties within the district pay for the services through annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The assessment is calculated based on the land use and its building and lot square footages. For 2018-19, commercial properties pay \$0.071914761 and residential properties pay \$0.048542190 per building and lot square footages. Future year assessments will be adjusted accordingly and will continue to be collected through the County property tax bills listed under Tax Code 0916 "DOWNTOWN PBID". Any questions may be directed to Department of Public Works at (408) 535-6831.
- 11) **Street Improvements:** All street improvements shall be to the satisfaction of the Director of Public Works. Lane configurations and intersection geometry shall substantially conform to the Proposed Street Cross-Section included in the Woz Way/Locust Street/Almaden Boulevard Off-Site Development Improvements (as known as Woz Way Planline Improvement) prepared by the Department of Transportation dated May 2020 on file. Any new, or modification to an existing, traffic signal will require a traffic signal "kick-off" coordination process prior to submitting the application for the Public Street Improvement permit. At least 30 days prior to submitting an application, send a request to begin the kick-off coordination with an electronic copy of a scaled conceptual traffic signal plan showing right-of-way, intersection geometrics, and signal layout.

- a. Almaden Boulevard: The existing bike lane, parking lane, and sidewalk shall be reconstructed to include following typical configurations. The remaining street configuration shall not be altered:
 - i) 8-foot wide parking lane, 6-inch tall curb, 5-foot square tree wells, 5-foot 6-inch wide bike lane, 6-inch wide tactile strip, 8-foot wide sidewalk through zone (include tactile strip on both sides of bike lane when not adjacent to curb).
 - ii) The existing bike lane and parking lane, beyond the project frontage, shall be reconfigured to create a protected bike lane that conforms to the proposed configuration.
- b. Woz Way: The existing bike lane, parking lane, and sidewalk shall be reconstructed to include following typical configurations. The remaining street configuration shall substantially conform to the Woz Way Planline Improvement: 8-foot wide parking lane, 6-inch tall curb, 5-foot square tree wells, 6-foot wide bike lane, 6-inch wide tactile strip (include tactile strip on both sides of bike lane when not adjacent to curb). The remaining sidewalk configuration over the extent of APN No. 264-28-144 to be determined at implementation.
- c. Almaden Boulevard/Convention Center-Project Driveway Intersection:
 - i) Add third and fourth crosswalk legs
 - ii) Extend northbound left-turn lane on Almaden Boulevard to provide a total vehicle storage capacity of 225 feet
 - iii) Implement License Plate Reader (LPR) system that notifies project traffic when significant outbound Convention Center egress movements will impact outbound eastbound project traffic at the intersection.
- d. Almaden Boulevard/Woz Way-Balbach Street Intersection: Extend northbound left-turn lane on Almaden Boulevard to provide a total vehicle storage capacity of 200 feet.
- e. Woz Way/Locust Street Intersection: Provide enhanced access and connection to adjacent Guadalupe River Trail.
- f. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
- g. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
- h. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans

and any necessary pavement restoration will be included as part of the final street improvement plans.

12) Storm Sewer:

- a. Abandon the existing storm sewer and structures, segment numbers 3802 and 52794, and construct new 36-inch public storm sewer main, rerouting the system to the north of the development site, connecting to the existing outfall structure in Guadalupe River; as conceptually depicted in the plan set associated with this Special Use Permit application ("SUP Storm Drain Work").
- b. Permittee agrees to begin construction of at least a portion of the SUP Storm Drain Work prior to the expiration of this Special Use Permit for the City to implement any storm sewer upgrades. If the City identifies any storm sewer upgrades and is ready to commence construction of the storm sewer upgrades prior to Permittee commencing the SUP Storm Drain Work, Permittee shall begin construction of that portion of the SUP Storm Drain Work that is required for the City to complete the storm sewer upgrades.
- c. A vacation of an existing 60-foot Storm Drain Easement is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. Upon vacation no further action by the City is required.
- d. Dedication of a new Storm Drain Easement is required over the project alignment and within the development site to accommodate maintenance access, to the satisfaction of the Director Public Works. Certain portions of this easement will require dedication from underlying fee owners not associated with this development. The City has acted in good faith with reasonable assurance from the Permittee that any affected owner has agreed to this dedication.
- e. Permittee has agreed to provide a voluntary contribution fee payment towards the future storm sewer upgrades described herein. Permittee shall make a payment to the City in the amount of two million five hundred thousand dollars (\$2,500,000) ("Voluntary Contribution") towards future storm sewer upgrades as follows:
 - i) A one-time payment of three hundred thousand dollars (\$300,000) to be paid to City within 60 days of this Special Use Permit approval.
 - ii) The remaining two million two hundred thousand dollars (\$2,200,000) to be paid on the earlier of (1) 60 days upon written request from the Director of Public Works; (2) prior to the expiration of this Special Use Permit or as extended by the Director of Public Works. Starting January 1, 2023, this fee is subject to an annual

escalation on January 1st per the Engineering News-Record Construction Cost Index for San Francisco.

Any unspent or excess contribution paid by the permittee to City will be returned to Permittee either upon i) completion of any storm sewer upgrades and there is a determination by City of excess contribution, or ii) expiration of this SpecialUse Permit and permittee did not move forward with building permit and construction of the project.

- 13) **Downtown Construction:** This project is located within the General Plan Downtown Growth Area or the Diridon Station Area Plan and will be required to comply with the Downtown Construction Guidelines (DCG). The DCG is for all work in the Public Right-of-Way to support the safe and orderly movement of people and goods by providing standards. The DCG serves as a guideline related to permits, coordination, and traffic control devices to entities performing work in downtown streets. A copy of the DCG can be found at: <https://www.sanjoseca.gov/home/showdocument?id=56303>.
- 14) **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, Permittee shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable Encroachment Permit for any sidewalk and lane closures to support the onsite construction activities.
 - a. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:
 - i) **Site Utilization Plan and Letter of Intent:** The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description of operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are within the Public right-of-way can't occur within the construction site. These include the use of the right of way for temporary facilities and activities such as man lifts, baker tanks, staging area, concrete pumping activities, etc. The letter must also provide a detailed discussion if covered pedestrian walkways are infeasible (ex. swinging loads over the sidewalk are not safe for pedestrians).
 - ii) **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit

should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

- b. Permittee shall minimize the potential impact to vehicular and pedestrian traffic by:
 - i) Implementing the closures at the time the onsite activities dictate the need for the closure.
 - ii) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in condition a.ii) above.
 - c. If the vehicle lane and parking closures are a part of the Revocable Permit Application, Permittee shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at <http://www.sanjoseca.gov/?navid=1629>. Permittee shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
- 15) **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans and the San Jose Complete Streets Design Standards & Guidelines. The City of San José recognizes that the Complete Streets Design Standards & Guidelines, in their current form, may have inconsistencies with some other City documents because in some cases this document would have substantial changes to the process of designing and retrofitting City streets. This in turn necessitates updates to other City policies, procedures, and codes so that they can be brought in line with the vision and goals provided in these Complete Streets Design Standards & Guidelines. Work has been done or is underway to update the San Jose Downtown Streetscape Master Plan to be in conformance with these standards and guidelines.
- 16) **Electrical:**
- a. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - b. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - c. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10 feet in commercial areas.

17) Street Trees:

- a. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Obtain a DOT street tree planting permit for any street tree plantings. Street trees shown on this permit are conceptual only.
 - b. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are to be removed.
38. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development by City Council Resolution No. [REDACTED].
39. **Standard Environmental Conditions.**

a. Air Quality

- 1) Water active construction areas at least twice daily or as often as needed to control dust emissions.
- 2) Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- 3) Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- 4) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- 5) Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- 6) Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- 7) Replant vegetation in disturbed areas as quickly as possible.
- 8) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- 9) Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- 10) Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- 11) Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints

b. Biological Resources

- 1) **Migratory Nest Protection.** Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.
- 2) If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas (including the Guadalupe River riparian corridor) for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.
- 3) The Permittee shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning or Director's designee, prior to the issuance of any grading or building permit.

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4) **Tree Replacement.** Replace all trees to be removed at the following ratios:

Table 3.2-2: Tree Replacement Ratios				
Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon
¹ As measured 4.5 feet above ground level ² X:X = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. One 24-inch box tree = two 15-gallon trees				

The species and exact number of replacement trees to be planted on a given project site would be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. The planting and maintenance of replacement and street trees will be made conditions of development approval.

- 5) **In-Lieu Mitigation.** In the event the project site does not have sufficient area to accommodate the required tree mitigation, implement one or more of the following measures, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
- a) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
 - b) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
- 6) **Tree Protection Standards.** The Permittee shall protect the trees within the riparian corridor during the construction per the following:
- a) Initial excavation of areas beneath the canopies of riparian trees shall be monitored by a Certified Arborist.
 - b) If roots larger than 1 inch in diameter are encountered during excavation beneath the canopies of riparian trees, the roots shall be manually exposed and pruned approximately 3 inches back from new construction. Pruning shall then occur as follows:

- i. All pruning should occur manually.
 - ii. Roots should be exposed and cleanly cut with a sharp pruning instrument.
 - iii. A backhoe or other equipment that rips, tears, or pulls roots should not be used.
 - iv. Pruned root ends should not be painted.
 - v. Exposed root ends should be protected from drying out by ensuring that they remain in moist soil until permanent backfill is placed.
- 7) **Habitat Agency.** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The Permittee would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatagency.org/.

c. Cultural Resources

- 1) **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- 2) **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent

remains. The Permittee shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- a) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- b) The MLD identified fails to make a recommendation; or
- c) The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

d. Geology and Soils

- 1) All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- 2) Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- 3) Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- 4) If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

e. Hazards and Hazardous Materials

- 1) **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a “Determination of No Hazard to Air Navigation” for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and “No Hazard Determination” expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.

f. Hydrology and Water Quality

- 1) Install burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains
- 2) Suspend earthmoving or other dust-producing activities during periods of high winds
- 3) Water all exposed or disturbed soil surfaces at least twice daily to control dust as necessary
- 4) Water or cover stockpiles of soil or other materials that can be blown by the wind
- 5) Cover all trucks hauling soil, sand, and other loose materials and maintain at least two feet of freeboard on all trucks
- 6) Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers)
- 7) Replant vegetation in disturbed areas as quickly as possible
- 8) Fill with rock all unpaved entrances to the site to remove mud from tires prior to entering City streets, install a tire wash system if requested by the City
- 9) Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City’s Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- 10) **Construction General Permit Requirements.** Prior to initiating grading activities, the Permittee will file a Notice of Intent (NOI) with the SWRCB and prepare a SWPPP prior to commencement of construction. The project’s SWPPP shall include measures for soil stabilization, sediment and erosion control, non-stormwater management, and waste management to be implemented during all demolition, site excavation, grading, and

construction activities. All measures shall be included in the project's SWPPP and printed on all construction documents, contracts, and project plans. The following construction BMPs may be included in the SWPPP:

- a) Restrict grading to the dry season or meet City requirements for grading during the rainy season.
 - b) Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
 - c) Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff with secure plastic sheeting or tarps.
 - d) Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
 - e) Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
 - f) Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.
- 11) The SWPPP shall also include a Post-Construction Stormwater Management Plan that includes site design, source control, and treatment measures to be incorporated into the project and implemented following construction.
- 12) When the construction phase is complete, a Notice of Termination (NOT) will be filed with the RWQCB and the DTSC, in conformance with the Construction General Permit requirements. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a Post-Construction Stormwater Management Plan is in place, as described in the SWPPP for the site.
- 13) **Dewatering.** The project involves dewatering activities; therefore, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain

by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the Permittee will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.

g. Noise

- 1) Prior to the issuance of building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. The Permittee shall retain a qualified acoustical consultant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building façades farthest from the nearest residences), where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

40. Interior Noise Level. Provide forced-air mechanical ventilation and sound rated windows to maintain interior noise levels at acceptable levels. A qualified acoustical specialist shall prepare a detailed analysis of interior noise levels resulting from all exterior sources during the final design phase of the project pursuant to requirements set forth in the General Plan and State Building Code. The qualified acoustical specialist shall review the final site plan, building elevations, and floor plans prior to construction and confirm building treatments necessary to reduce interior noise levels to 50 dBA Leq(1-hr) or lower, and address and adequately control noise from rooftop equipment on adjacent buildings, as necessary. Treatments would include, but are not limited to, sound-rated windows and doors as specified above, acoustical caulking, protected ventilation openings, etc. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, along with the building plans and approved design, prior to issuance of a building permit.

41. Revocation, Suspension, Modification. This Permit may be revoked, suspended or modified by the City Council, at any time, regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

EXHIBIT "A"
LEGAL DESCRIPTION
FOR: PLANNING PURPOSES ONLY

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California and being all of Lot 1 and a portion of the Designated Remainder as shown on that certain Map of Tract No. 9468 filed for record May 18, 2004 in Book 770 of Maps at pages 7 and 8, Santa Clara County records being more particularly described as follows:

Beginning at the intersection of the easterly right-of-way line of Almaden Boulevard and the northerly right-of-way line of Woz Way as shown on said Tract Map;

Thence along the exterior boundary the following thirty-five (35) courses and distances:

1. South 58°38'40" West, 44.97 feet;
2. South 58°01'19" West, 55.04 feet;
3. South 59°16'50" West, 65.01 feet;
4. South 58°38'46" West, 45.01 feet;
5. South 58°38'02" West, 37.01 feet;
6. South 58°38'36" West, 38.01 feet;
7. South 58°38'46" West, 39.41 feet;
8. North 27°36'29" West, 30.86 feet;
9. North 5°48'44" West, 42.72 feet;
10. North 5°34'57" East, 40.97 feet;
11. North 5°44'39" East, 41.86 feet;
12. North 5°57'04" East, 41.26 feet;
13. North 5°38'03" East, 41.65 feet;
14. North 1°18'44" East, 41.23 feet;
15. North 5°26'20" West, 41.47 feet;
16. North 12°12'43" West, 27.24 feet;
17. North 12°13'17" West, 14.38 feet;

18. North 18°22'27" West, 41.42 feet;
19. North 24°51'33" West, 41.44 feet;
20. North 29°32'04" West, 41.48 feet;
21. North 29°59'09" West, 41.47 feet;
22. North 29°36'47" West, 41.64 feet;
23. North 30°09'01" West, 26.36 feet;
24. North 34°34'48" West, 60.61 feet;
25. North 43°47'51" West, 37.25 feet;
26. North 43°22'18" West, 31.51 feet;
27. North 41°51'14" West, 31.09 feet;
28. North 39°48'30" West, 31.74 feet;
29. North 35°21'57" West, 27.20 feet;
30. North 35°21'57" West, 40.21 feet;
31. North 60°06'26" East, 23.19 feet;
32. North 29°53'34" West, 18.00 feet;
33. North 60°06'26" East, 162.00 feet;
34. South 29°54'07" East, 204.34 feet;
35. South 29°54'32" East, 611.52 feet to the Point of Beginning;

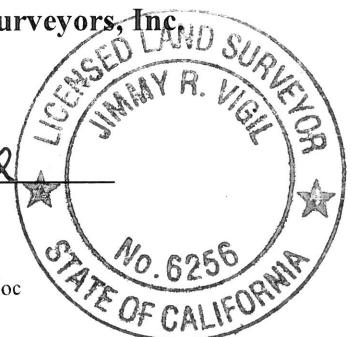
Containing 3.57± acres.

As shown on Exhibit "B" Attached hereto and by this reference made a part hereof.

Legal Description prepared by Kier & Wright Civil Engineers and Surveyors, Inc.

1-29-19
Date

Jimmy R. Vigil
Jimmy Vigil, L.S. 6256



ALMADEN BOULEVARD

POINT OF BEGINNING

S29°54'32"E 611.52'

LOT 1 & PORTION OF
DESIGNATED REMAINDER
(770 M 7-8)

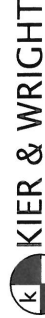
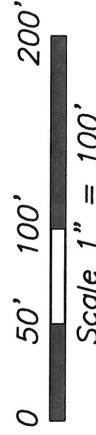
GUADALUPE RIVER

WOZ WAY

N29°54'07"W 204.34'

S60°06'26"W 162.00'

LINE TABLE			LINE TABLE			LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L1	S60°05'28"W	35.00'	L10	N5°48'44"W	42.72'	L19	N18°22'27"W	41.42'	L28	N41°51'14"W	31.09'
L2	S58°38'40"W	44.97'	L11	N5°34'57"E	40.97'	L20	N24°51'33"W	41.44'	L29	N39°48'30"W	31.74'
L3	S58°01'19"W	55.04'	L12	N5°44'39"E	41.86'	L21	N29°32'04"W	41.48'	L30	N35°21'57"W	27.20'
L4	S59°16'50"W	65.01'	L13	N5°57'04"E	41.26'	L22	N29°59'09"W	41.47'	L31	N35°21'57"W	40.21'
L5	S58°38'46"W	45.01'	L14	N5°38'03"E	41.65'	L23	N29°36'47"W	41.64'	L32	N60°06'26"E	23.19'
L6	S58°38'02"W	37.01'	L15	N1°18'44"E	41.23'	L24	N30°09'01"W	26.36'	L33	N29°53'34"W	18.00'
L7	S58°38'36"W	38.01'	L16	N5°26'20"W	41.47'	L25	N34°34'48"W	60.61'	L34	N60°05'53"E	35.00'
L8	S58°38'46"W	39.41'	L17	N12°12'43"W	27.24'	L26	N43°47'51"W	37.25'			
L9	N27°36'29"W	30.86'	L18	N12°13'17"W	14.38'	L27	N43°22'18"W	31.51'			



KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22 Phone (408) 727-6665
Santa Clara, California 95054 Fax (408) 727-5641
www.kierwright.com

EXHIBIT B PLAT FOR PLANNING PURPOSES

SAN JOSE

CALIFORNIA

DATE	01-29-19
SCALE	1" = 100'
BY	CCB
JOB NO.	A18140
SHEET	2 OF 2